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# DEFENCE

BEFORE A

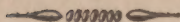
## GENERAL COURT-MARTIAL,

HELD

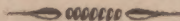
AT WEST-POINT, IN THE STATE OF NEW-YORK,

IN THE MONTH OF MAY, EIGHTEEN HUNDRED

AND NINETEEN.



✓  
BY THOMAS RAGLAND, CADET.



NEWBURGH:

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1819.



## DEFENCE.

MAY IT PLEASE THE HONORABLE COURT ;

I APPEAR before you, neither to extenuate faults, nor conciliate favour ; but to answer the accusations against me in the spirit of the Law ;—to inform the judgment by the light of reason, in the simplicity of truth : and, though inexperienced, trusting in the amplitude of my research, to expose the merits of my case, apart from abstract speculation, and free from the illusions of sophistry.

Without fancy to captivate imagination, or a desire to excite the sympathies of the heart ; my appeal is to the judgment. It shall be my endeavour to display before the intellectual eye, justice in *her* native simplicity of beauty, and irresistability of strength ; and to excite that homage which is as well *her* due as *my* interest.

When the judgment sanctions the feelings of the heart the decision must afford rational delight ; but when they do not accord, the impartial judge, should be uninfluenced by the latter. As such, I address you—you, who should be free from interest, prejudice, or partiality ; and who should, in rectitude of intention, examine my actions, not as the “ ebullitions of ardent and youthful feelings ;” but as emanations of principle, without a feeling untempered with reflection.

Should I be condemned, I shall, indeed, be stripped of the paraphernalia of rank, which you will still wear with complacency : but to me, it would be a grateful riddance from the chains of slavery—from an obligation to submit to injuries and indignities. I shall be free from a calling become uncongenial with the temperament of my moral constitution : but still retain a just pride, and a tenacious attachment, to what, in its essence, constitutes military glory ; and, without which, the

military life is mercenary. But no! you must be sensible, that in the profession of arms, independence and pride are indispensable military virtues, inseparable to the mind, suited to fill the high station of the soldier, and accomplish its important intentions. You will be eager, therefore, to convince the public mind, that it is your wish to cherish such sentiments in the school of the Military profession.

Before proceeding to notice the charges and the conclusions resulting from the evidence; permit me to draw your attention to several preliminary points, on which many have inculcated and still continue to inculcate, from interested views, impressions baneful in their consequence, pervertive of justice, and suppressive of that noble and consistent independence in the Army, which is calculated to render it the pride of a polished and free people; who are too virtuous to parley with vice, to swerve from justice to partiality, to concede right to temporary expediency, or to be governed by a weak and illiberal policy. A people who know legal authority is never so well bottomed, and so stable, as when grounded on the idea of justice, strongly and continually enforced on all concerned.

It is a rule with some men, to compromise the errors of especial military commanders, from the *ostensible* but not *true* apprehension, that their correction might lessen the respect due from the inferior to the superior; and that insubordination would consequently result.

Such policy may suit interested or contracted views; it may be the phantasm of the dark and unripened mind; but it is not the plan of the intelligent commander or statesman. These acknowledge the fundamental principles of our Government, as rules of action, because they comprehend their vital importance, and foresee the danger of their slightest infraction; but such as I have mentioned, who can contemplate the happy condition of our country, arising out of a constitution which dispenses liberty to all, as "free as the liberal light of heaven;" and yet prostitute it to promote private views, may easily degenerate into making it subservient to the basest purposes.

But you, Gentlemen, I trust, are not of this order. You will adhere to the obligations of the social compact; not sanction an exercise of arbitrary authority, which would make the laws partial in their application, and bear particularly on those, who have the least allure-

ments from the paths of rectitude, and from whom danger is not to be expected.

The experience of ages is in favour of the written polity of our country. If exceptions of any sort be admissible, the *most rigid* severity of Law would seem to be required for the *highest* ranks. This is aptly illustrated by a reference to the well regulated, and pacific government of China; where, when the Monarch receives intelligence of commotion in a province, the Mandarin thereof is thrown into prison, to await the investigation of the case; according to the merits of which, justice is promptly administered; and though the subordinates, if guilty, may, for a time, have escaped the punishment due to their crimes; it is found to prevent the frequency of oppression; to preserve order; and is, therefore, a rule grounded in wisdom.

The remark of the Scythian philosopher is not inapplicable to the subject. In commenting on the Grecian laws, he regrets, that the wisest, and most guarded of them, and indeed, of laws in general, are at best but as cobwebs, capable of restraining small flies, but through which wasps and hornets easily break. Notwithstanding, I trust, you will shew that ours are of a firmer texture; and that neither venality, nor ignorance is again to administer on them;—that we are not called upon to witness the pollution of the seats of justice, by a court, constituted, not with a view of being governed by the laws, but to give a decision according to the wish of their superiors, and their individual interests.

The Court of Enquiry lately held at this place, has offered a spectacle as humiliating to the pride of the army, as obnoxious to the rights, privileges, and honour, of the citizen. Subverting law, they have aimed at injuring reputations, which they could assail with impunity. They have even neglected the usual forms of justice, and admitted against the committee of Cadets, and that too, without confronting him, the evidence of a man, who stood accused by them, of tyranny and oppression; whose crimes would have become apparent in a different issue than their crimination. It is a novel—an unprecedented case,—unknown before in any country,—unpractised even in the Inquisitorial courts, that persons should be tried WITHOUT A HEARING,—without permission to offer arguments, or evidence, in their exculpation from implicated offences.

I trust that we shall shew, as we then could have shewn, that our conduct has been undeviatingly honourable—our aim unerringly for the public good.

The most respectable testimony before this Court amply shews, that there is but little credit due to the evidence offered before the Court of Enquiry. The decision of that Court has been made upon *ex parte* evidence, in a trial where the accused was not heard; and consequently it has violated the constitution in two instances. I hope, therefore, you will avoid its baneful influence.

Whilst I admit the propriety of paying due deference to the opinions of others, I would observe, that unless we be acquainted with the reasons for these opinions, they are no hold for wisdom, and that as the opinions of public men may prove seriously detrimental, or truly useful, they should be exposed to the eye of scrutiny, without regard to private objection, or individual repugnance. I know—

“The flesh will quiver where the pincers tear,

“The blood will follow where the knife is driven.”

But it is my right, in this instance, to draw forth occult depravity to the light of law and reason—not to indulge personal pique; but to erect a beacon in the haven of justice;—to withdraw the mystic veil, and point to the ulcerated body.

To facilitate the investigation of the charges, and partly, in answer to them: I shall now notice the order of the 27th of November last.

Commencing with the astonishment into which the Major commanding was thrown, by witnessing the “combination of a number of young men, forming themselves, as it were, into a deliberative assembly,” and his sanguine anticipation that all men, whether civil or military, will participate in this astonishment. It is indeed, wonderful, and could have proceeded only from a view contrary to optical evidence, or the confused images of a feverish and disordered brain. The fact, that there was no assembly of the kind, or of any other denomination, on the business adverted to in that order, is a reply sufficient for our case: this being shewn by the cross-examination of the witnesses

on the part of the prosecution, and, for the matter of vindication, it might close the consideration of this specific part. Yet, to be more ample, and to dissipate every doubt, in this particular, against the Cadets, and their Committee, I will suppose for an instant, the existence of assemblies on the business. It is presumed none will controvert the right of meetings to effect legal ends, provided they do not interfere with duties. It cannot be required, or urged, that the citizen, on taking the character of the soldier, is restricted in any privilege, or deprived of any rights, when such restriction or deprivation is not necessary to effectuate the legal objects of the army; and it is, therefore, obligatory on those who deny the right of such meetings, to shew wherein, according to this position, they are unmilitary—and, hence, unlawful.

If injuries are not to be complained of, those laws which guarantee rights, become null and void. Cannot many persons, in a collective capacity, be injured by their superiors? or is a superior, in the eye of the law, incapable of abusing his authority? If not, when having abused the collective body, may not that body complain to the next higher superior for a redress of wrongs; and is it not his duty to notice their complaints? The clear and explicit statement of these questions, presents the subject in so forcible, and so evident a light, as to flash conviction on the mind, of our correctness; and I cannot think, for a moment, that truths, so easily comprehended, will escape the apprehension of this intelligent Court.

In Marshall's life of Washington, may be found instances of officers from the general to the subaltern, uniting to represent grievances and to state abuses. The meetings, on such occasions, were not only sanctioned by general Washington, but received from him every facility to accomplish their ends.

During the Revolution, the Congress admitted a committee from one into their very bosom. In the case of the cabal formed in favour of general Gates against general Washington, a great number of the officers of the Army assembled, and appointed a Committee to represent their dissatisfaction to that body, on account of the influence it had obtained in the House; and frankly declared, that if any steps unfavourable to commander in chief, were taken, they would simultaneously retire from the service of their country.

This has been the constant practice to the present period. The officers in the 12th Regiment, in the recent war, drew up and presented an objection to the promotion of their own colonel. The Midshipmen, in like manner, remonstrated against one of their superiors; and yet in no instance, till the present, has it been condemned. Wherein it is now terrific in its nature, or dangerous in its consequences? Have the rights it sought to protect ceased to exist? To place the case, if possible, in a still more urgent point of view. When the officers of the Mediterranean station sent their memorial to the Senate, touching a circumstance not dissimilar to the object of our complaint, it determined that it was the mode prescribed by law, that communications of this nature should be first presented to the President; and if he should fail to give satisfactory relief, they then became a proper subject of reference to their consideration. The usages of foreign service uphold the right of committee. But, Gentlemen, as the matter has not, perhaps, been positively determined by law, the opinion of judge Marshall may not be unprofitably consulted; although as a point of common law, it is as clear as any case whatever—their being no instance of any abrogation, by a counter legislative, or judicial act, of this custom;—and it having universally obtained in our country, from the earliest period of government to the present day. The Judge in his relation of combinations and meetings, as also committees in the Revolutionary Army, to effect legal ends, seems conclusively to acquiesce in the idea of their correctness; for it is illiberal to suppose, that a person of his knowledge in jurisprudence, and experience in Military affairs, would have failed to comment on their dangerous tendency; if they were, in their aspect or nature, insubordinate or mutinous.

To meet for the purpose of debating on orders in general, is properly condemned. Many evil consequences that are apparent, might, and undoubtedly would, result therefrom. It may be that the Major commanding, without due examination, fell into the error of most copyists, and mistook the condemnation of this, by military men, for proscription of meetings and committees under any form, or for any purpose; or perhaps his error is excusable. In the investigation of the nature of propositions, so general as this is, the mind is often led into error, by being drawn off to some particular case, which, seemingly, bears a strong affinity, but which is foreign to the particulars that are properly under the general head: and thence conclusions are drawn, erroneous, but satisfactory to the mind of the enquirer. Wherein does this specific case differ from those just recited? or where is the

just distinction between a complaint presented to the Chief Magistrate, and one presented to an officer of an inferior station ?

To expatiate more freely. How shall a body of men seek redress ? and how may this be done in the most orderly and expedient manner ? The corps of Engineers, in their present compact, or combination against general Bernard, point out the propriety of even anticipating and warding off injury by collective action. Will it be said that this is a high and peculiar privilege permitted them ? If I be not mistaken, our laws and the genius of our government are opposed to privileged orders ; and, of consequence, what in that corps is lawful, is in the corps of Cadets a right ; a right which they have partially exercised, and will, fully, if needful.

They feel sensibly the necessity of strict discipline, and will cheerfully submit to the rigors of a military life. Yet they are able to discriminate between the obligations of an American Soldier, and the tame submission of the Russian peasant. Whilst a Paul would find them ungovernable, a JACKSON or a SCOTT would easily command them.

I know full well the ideas of many on the government necessary for this Academy. Superficial observers !—Unacquainted with those lofty sentiments in which frivolity is lost, and out of which emerges manly sentiment, characterizing those whom they term “ *boys !* ” and whom they look on as requiring the correction of ordinary schools ;—they seem not to know that the responsibility of our life, and that military pride animates in every breast, produces a radical change from puerile thoughts to manly reflections ; that emulation here is powerful, and glory is seen through the avenue of subordination, the infringement of which is deemed a disgrace, a blight to our dearest hopes.

These are considerations on which the government of the Academy should be founded, or else the design of the Institution will more than fail ; but on which, recently, it has not been conducted. They were of the first importance under the fostering hand of captain Partridge ; a man who is dear to those who know him, and who appreciate virtue : Whose worth was once our boast—whose friendship is still our pride. It was not from fear that we obeyed him ; that was a plant foreign to the soil of his culture. His commands seemed intuitively our wish.

In the duties of the officer, was mingled the language of the friend; and to him, concession of error was as pleasing as reparation of wrongs. Pardon this slight digression.

But to return. A deliberative assembly, carries, in the very idea of its existence, order; and a combination of persons thus meeting, presupposes the intention of acting in a manner the best suited to the objects of the body in compact; and gives no apprehension of incidental errors, discordant with the main objects. The propriety, or impropriety, then, of such a meeting, is determined by the design, and no censure can possibly be attached to the bare circumstance of such an one, abstractly considered. Instances in all their variety, exemplifying this truth, are indefinite; none are deemed necessary to be mentioned, to induce the assent of the reflecting mind to this position. Since, then, it seems the *object* is the feature to which you are referred for criminality; this part of our imputed conduct must lose the hue of crime, and leads to a more minute notice of the organized Committee; the existence of which is admitted, but its motives and objects are unkindly distorted.

The paper (B) giving the Committee existence, is before you, and bears the conditions under which they were to act, not only in tenor, but in the very language restricting them to the limits of Martial Law. This, then, relieves the Cadets from the charge of participation in any error into which the Court may find the Committee to have fallen; and, at the same time, that it gives them the high satisfaction of being thus able to free from censure the great body, it evidently affords plausible reasons for the belief, that their motives were correct. But although the deep line between motives and actions when they agree not, must, on such a subject as this, enter into the consideration of those who are to administer the laws; yet I do not wish to be understood as presenting my case in this shape, being confident that mine are in strict accordance.

It is unreasonable, however, to think, for a moment, that persons having so much to lose by incurring the displeasure of the head of the Academy, would do it intentionally; for, on the other hand, they were sure of meeting disapproval of their measures, with those they had been delegated to act for, in pursuing an insubordinate line of conduct; and when too, they apprehended they could, in a proper one, compromise the matter satisfactorily to either side, and unite their interest with commendation.

If ambition urged them, they would have sought its gratification, either in the pleasure of major Thayer, or of the Cadets. By an unmilitary mode of conduct it then appeared, that the censure of both would be incurred. If interest, they would, in supposing the commanding officer true to his duty, have wished to meet his ideas of correctness. If pride, would they have courted the most degraded character the soldier can assume ?

It could not have been personal enmity by which they were influenced ; for members of the Committee had received from the Superintendent the highest distinctions of the Academy, and were notoriously his warmest friends.

No, Gentlemen, there has been nothing selfish in our proceedings ; no oblation to hatred, pride, interest, or ambition.

The subjects of assembly and committee, amplified on, as they have been, can leave but little doubt on the mind ; and the precedents of committees authorized and encouraged by captain Partridge, as is seen in his evidence, producing invariably beneficial effects, as also those sanctioned by general Swift, on all occasions by his respectful attention ; are conclusively in our favour. The prosecutor must be aware of many instances, and of some extending to redress of grievances.

Now, when a principle has existed with the silence of the commandant, it carries on its face the idea of his acquiescence in its correctness ; and implies his permission for its being a rule of conduct.

Are Military men, as I have before enquired, when wronged in their collective capacity, allowed to represent their grievances, and to seek redress ? The subject is resolved into this form, and requires a double decision ; the one applicable to the army, the other touching the committee of Cadets. Usage of long standing takes the force and authority of Law, whether it be particular or general ; and it is proved that committees have heretofore been allowed, without a solitary opposition, at this Institution. The joining in committee, then, is not here, if it were elsewhere, unlawful ; a decision reprehending it, would be condemning what was allowed ; and would be, in fact, passing what is in its nature, a law *ex post facto* ; which can be imposed in no form, according to our constitution.

The Court will form a law by their decision, inasmuch as that decision will either confirm, or do away, a principle of long standing in the army. Custom or usage must arise out of what is, or seems to be, reasonable, and of public utility. When any usage is found by experience not to be so ; it follows, of course, that it should cease to exist ; but no tribunal can act in retrospection, and award punishment for conforming to what was deemed correct generally, and in contravention of no statute Law. Hence, if the mode adopted to redress our wrongs, is by this Court thought to be inexpedient ; it seems proper that they should decide against it, so far as to prevent its recurrence, either at the Academy or in the Army ; but that their decision should not extend to our crimination ; and, therefore, under this consideration, we should be honourably acquitted. I might here introduce the opinions of general Jackson, colonel Butler, and general Scott ; officers who were particularly consulted on this matter ; all of whom readily decided that we were supported by the most respectable precedents ; and with the exception of general Scott, (who made the question of propriety a point of doubt,) that our mode of conducting the business was in every respect proper, and highly military. Every other officer spoken to, (except those immediately concerned,) and they were many, concurred in this opinion. Citizens, and particularly members of Congress, were warm and zealous in our cause. Many of the latter are anxious, if it should not terminate in our favour, to have the matter brought before Congress ; and indeed, there is an avenue already opened for its entrance next session, if necessary.

When we are so strongly supported by public sentiment, with the most intelligent, able, and experienced Generals and Statesmen on our side ; we cannot but be confident of success ; and you surely will *hesitate* to condemn us, as designedly guilty of acts that are mutinous or insubordinate ; for circumstances already enumerated, and opinions so respectable, argue strongly our correctness ; and, if we were wrong, plainly and indisputably indicate, that our impropriety is obscure, and that it arose from an error of judgement, not from the deliberate intention of acting incorrectly.

I pass over that part of the order, in which we are charged with dictating to the Superintendent, what steps it would be proper for him to pursue ; it being an object of especial consideration in the charges ; and shall proceed to examine the premises, on which is hypothecated that part of the order referring to opposition to the constituted author-

ities. How this is apparent is not conceivable. Testimony exhibits no powder plots; no martial array to storm the citadel, and redress our injuries, by the intimidating influence of the bayonet. No, Gentlemen, it appears that the utmost order prevailed in every department of the Academy: That the regular duties were as promptly attended to as usual, may be seen from the Report of the Superintendant, which says, "I am happy to inform you, there has been no positive acts of mutiny or disorder, and that the good order of the Institution has not been interrupted for a moment!"

Gentlemen, I will now give an instance analogous to the case under consideration. Col. Hindman, on the drill of subaltern's commands twenty; at which time, to indulge some strange propensity, he canes each individual; they are unwilling to suffer this treatment, but do not at the time, feel disposed to give the colonel his quietus with the bayonet. After some consideration, they each make out a separate complaint, and hand it to the colonel's superior and commanding officer; and it so happens, that they all present them at the same time; it is presumed the Rules and Articles of War would justify them in so doing. But now, suppose them all to sign the same paper, (their complaint being identical,) is this less admissible? Pursue the case; they prefer another mode, and appoint a committee of two, in order to avoid trouble, to state the matter in substance, just as they would have done in affixing their signatures to the same papers. It behoves those who are against our proceedings, to shew how the first, or the intermediate mode, is essentially different from the last.

After all that has been said on the subject, it may be replied, that the injuries complained of did not exist; which I anticipate in the language of the law. It is only necessary that an aggrievance be felt, after well reflecting on the nature of the received treatment, to institute prosecution. If major Thayer has failed in the support of his charges against me, and if it does appear that they were preferred under the conviction of my guilt, he is by law and common sense justified. But on the contrary, if those charges were made out, without grounds for their belief and with a malicious intent, he is then subject to the severest penalties of law martial; and as I know such was the influence, (seeing that his screen is gauze,) I hope the accomplishment of general Jackson's desire. "I trust the President of the United States has not so far forgotten the law, or the duty he owes to justice, as to pass such unheard-of conduct in silence. I hope he has, or will order a prompt in-

vestigation of the whole case ; and if substantiated, as presented to my view by the vouchers you have forwarded me, there can be no doubt but captain Thayer will be reprimanded, if not dismissed."

Having thus premised, and in part anticipated, I shall now enter more minutely on the charges.

Mr. President, and Gentlemen of the Court ; I am accused of the highest military crimes—of the most degrading vice ; can I have received such corrupt impressions in that calling, to which I had been devoted ere the vigor of the body comported with the aspirations of the mind ; when the soul, in thirst for glory, renounced friends, kindred, and home ? Oh ! I do feel that though my life has been but as "a glittering dew drop in the boundless ocean ;" it is as the fairest gem contrasted with the foulest earth, when seen in the same field with my accuser's. Sublimated in the crucible of trial, it is too pure to throw off its "mantle of light" to assume the habiliments of corruption. If I am doomed to struggle with misfortune, because I have been in these proceedings, inflexible in principle ; there is around my heart a balm of conscience, that will close the laceratings of disappointed hope. In the retirement of adversity, I shall cease to think on the appendages of rank ; and rather enjoy in obscurity, the sweetness of liberty, than mount to the most splendid seat of vassalage.

The first charge is mutinous conduct ; and I am told, that sometimes, when mercy softens the heart, and duty enforces the exercise of office, in bringing those who are guilty of mutiny to trial, it is thrown into this shape, to avoid inflicting on the accused the severest penalties of Law. It may, indeed, be praiseworthy in some ; but how to account for this lenity in our case, is extremely difficult. Why not charge us with mutiny ? *Our understandings were clear, and we are above our associates in the scale of intellect. With the fascinating dissimulation of the hoary-head seducer, we beguiled simplicity ; placed the apple of crime fair and mellow to the eye. The corps of Cadets were but the material body, which we, the soul, could enter and animate to the tone of our caprice.* Indeed those terms are complimentary, and more powerful in exciting disaffection than any feeble efforts with which we are able to move that intelligent and honorable body.

I cannot here omit an extract from Sir Philip Sydney. "It is indeed, a lamentable truth that misapprehended excellence is often an

“ object of dislike. Many people do not always understand the motives  
 “ of sublime conduct, and when they are astonished, are apt to think  
 “ they ought to be alarmed.

Perhaps it has been so with this Major of ours. Unable to reduce the motives of the Cadets to his standard of correctness, he supposed that they were in error, in deviating from what would have been his course, if alike situated; and as that deviation was to the greatest possible latitude, their crime was one of the first order.

The first Specification is, *exciting disaffection in the Corps of Cadets; and advising them into a system of measures, having in view dictation to, and coercion of, their commanding officer.* The paper I now present you, will shew in what manner I am guilty; and the one already in your hands, according to which the Committee were appointed, throws on the subject a fullness of light that must place my conduct so far in a commendable view, as to free it at least from the attachment of error. That the measures the great body entered into were spontaneous, I presume, on the evidence offered before this honorable court, cannot be doubted; nor does it appear that their objects were such as are stated in the specification. That they felt themselves injured, is certain; and that they supposed they had a right to represent their injuries, is as little to be doubted. The confidence in the Superintendent, expressed on all occasions by those they had honored with the execution of their business, must be convincing to the unprejudiced mind, that their reliance for redress was on his justice; not the expectation of operating by intimidation, on a dastard and cowardly spirit. It may be remarked here, that the Specifications in general, indeed, on the whole, do not charge the Committee with promoting or effecting assemblies as a crime; but make the imputed objects the offences on which are predicated the charges; and it therefore must not only be made to appear, (and it has not yet been,) that we did effect meetings and combinations among the Cadets, but, also if effected, they were with the intentions and views attributed to them in the charges; and that those views and intentions originated in, and were guided by, our influence.

The Court will perceive there may be a striking difference between the nature and the objects of any system of measures. Proceedings may be, in their effects, insubordinate or mutinous; and yet the ends of their institution perfectly consonant with military propriety; again, the measures may be consistent with strict military discipline, and yet

their originating motives be censurable. In more familiar terms ; actions and intentions are often widely different. Persuaded that I have established the correctness of our conduct in the main ; inasmuch as it respects action ; and *that*, as I conceive, being the only evidence developing our motives ; the next step will be to show more fully what those motives were.

If our mode was justifiable, or if it be even problematical ; it is a favorable indication of our motives ; it being the rule in all doubtful penal cases, to give a construction favourable to the accused. But if, in the eye of the court, it is so palpably wrong, as to have made it almost impossible to omit observing the error ; then is there just reason to suppose that in its adoption, we designed what is attributed to us. Yet if the acts were right, when abstractly considered ; however the motives are to be reprehended, we are, by the Laws, exonerated ; and if the deeds were wrong, however much so ; if after mature reflection, the motives were pure ; it is to be considered a misfortune to have fallen into them ; and still, by the Law, we must be acquitted. The intention must have accorded with the illegal proceedings, or the proceedings must have arisen out of inexcusable inattention, before they become criminal, either in the letter or in the spirit of the Law.

But it seems it may be understood, that those persons who composed the committee, were the ones who designed themselves to dictate to the commanding officer, and not the corps ; and that they, under specious pretexts, imposed on the credulity of the Cadets, in a manner that enabled them to gratify this propensity ; that they artfully sought to devise means to render the corps so subservient to their will and caprice, as to make it an instrument to overawe their Superintendent. This appears to be the proper construction of the Specification, as illustrated by the order of the 27th of November.

“ He [the Superintendent] would willingly, indulge the belief, that a great portion of those who have given them [the measures] their countenance and support, are not entirely aware of the danger to which they expose themselves in so doing. He cannot believe that they have deliberately and intentionally adopted a step ruinous as this would be in its consequences to themselves.”

“ With respect to the *committee*, however, the same excuse cannot be pleaded ; they appear to have erred knowingly and willingly, and

there is even reason to believe that their influence has been employed in seducing others from the path of duty."

Whilst this compliments our understandings, it does but little honor to the head of one who should be acquainted with, and is so shamefully deficient in a knowledge of, the proper judgment of the corps.

I do not recollect, nor does it appear to the Court, that I advised a single individual to subscribe the paper to which my name was signed. Any Cadet who, at that time, did not sufficiently feel the smart of injury, and whose judgement was not enlightened enough to know that in it, every intention was clearly correct, should he have asked my advice on its propriety, would have been spurned from me. It would be madness to descend into the brothel to teach morality, or to resuscitate virtue. The heart that shrinks into nothingness, when the Gorgon face of tyranny is seen, is *not the one* in which can be cultivated the delicate sentiments of laudable pride. It is too impure to be filtrated into the limpid fount that gives nourishment to honorable affections.

When the first paper (A) had been written, and signed but by a few persons, it was thought the tenor of the language might leave room for misconstruction; Mr. Fairfax, some others, and myself were of opinion, that as it would be best, that every intention should be strictly and unequivocally defined, another ought to be written, unexceptionable in its terms; which was accordingly done, (*see B*) and which concluded in these emphatic words: *and to take such other measures as the necessity of our case, and military propriety may suggest.*" Thus, to represent what we felt to be grievances, and to be governed by "military propriety," is the combination from whose womb, came into life, this Hydra so monstrous in the imagination of the Superintendant.

From this it does appear, that the Cadets were not induced by me into the measure of combination; and it is extremely preposterous therefore, to suppose, for a moment, the latter part of the specification true:

"The objects of which, were to dictate a course of conduct to his commanding officer, (Brevet major S. Thayer, of the United States' corps of Engineers,) and by the appearance of so general a combination of the Cadets as he had effected, to overawe him, (Brevet major

S. Thayer, of the United States' corps of Engineers,) into a discharge of the measures dictated."

If I did not, as is so shewn by abundant testimony, use my influence in that affair, further than to change what I feared might wear the appearance of insubordination, by a misconstruction, then the objects, as just stated, are unsupported, if it were even granted, that the Committee ulteriorly assumed a dictatorial tone, and took means, with a view to prostrate the power of the Superintendent, and overawe the head of the Institution "into a discharge of the measures dictated."

The ultimate objects, originally, must be referred to the individuals who appointed us members of the Committee; as every candid mind of this honorable Court must perceive, that it was a step taken from the dictates of their own unbiassed judgment, as far as I am concerned.

Objects cannot have been in that which did not exist, namely, in my influence to effect the union or combination. The cause and ends of that combination are not attributable to me, more than to any other individual who signed the paper just referred to. It may possibly be, that my motives were sinister; perhaps ill will to major Thayer; a desire to vilify the character of captain Bliss, or an unholy league with captain Alden Partridge, as it is intimated in a Report of the Superintendent to the Secretary of War. Influenced by such motives, I should indeed be no novice in crime, and to God alone would be known this reach of political villainy.

What has been premised partly is, that as a privilege, or rather a right acknowledged, in our service generally, a union to represent, and committees to state grievances, are admissible. Secondly, if they are not so in this extended latitude, particular circumstances heretofore have made them allowable at the Academy.

But, gentlemen, truth is eternal; it moulders not in the lapse of time; it can receive no shade from the color of usage; the artful wiles of malignity may cast within its tract, forms terrific in their aspect, but they are only the shadows of realities in that of vice or falsehood. It is intuitive in the mind that loves humanity, inseparably connected with self love, rightly understanding self interest; unvaried by the actions or opinions of men. Experience but serves to point out its course; it being in its nature unchangeable. The type of truth is among the

first creations of God, natural light, emblematical of the light of reason, the most glorious of the Eternal's works.

On inductions of truth, therefore, ground your decision. Let then the obnoxious paper, as it is termed, (and I think in mockery of your judgment,) receive investigation, without reference to similar presentments, which officers equally distinguished for judgment with my accuser, have received as proper, and in the spirit of our laws. In England, the subject boldly advances to the monarch's throne, to offer his complaint. In Russia, under Peter, he could thus seek redress, by risking his head on the issue. We have neither the Briton's right, nor the Russian's privilege.

Gentlemen, the skillful precision of the experienced surgeon is seen in the dissection of this document. The chosen parts are well suited to their end. This person is in the very leprosy of corruption, and there is none whose touch can purify him; he would prey, as the ungenerous vulture does, upon the livid corse. Whence arise those seeming contradictions of Holy Writ, but from dismembering particular passages, unexplained in their parts, and admitting of constructions horrible and disgusting, which, when seen in their proper connexion, appear important, clear, and in beautiful concordance? Suffer me then to read the whole of this seditious, or mutinous paper, either of which appellations it has received. *Here paper (F) was read.*

It is said to have enlarged on the number who were engaged in the proceedings, and with the purpose of overawing the Superintendent of the Academy. Is this seen, *prima facie*? or does it appear from testimony? No, it was written under feelings too noble for the sympathy of those, who, like our major commanding, are out of covenant with any generous affection; whose distempered hearts pollute their understandings. It is not surprising, that my conduct should be strange to the eyes of some men; of those whose stations subserve the gratification of corruption, supported by power. The "fools of false dominion," once they seemed my friends.

"Alas! our young affections run to waste,  
Or water but the desert."

But, gentlemen, *revenge* is the feeling of my accuser. He has sounded the tocsin; his troop stands obedient to his call. The course of his iniquity has been checked, and I am proud to say, by the joint efforts of the Committee.

Where are now his Courts of Enquiry? his captain commandant Bliss? The first, novel and outrageous in their nature; the second, no less in nature, a novelty and an outrage.

The paper, gentlemen. The number one hundred and eighty, is even less, (as may be seen on the document before you,) than the actual number who deputed us to present those charges, which, by right, and from sufficient cause, were entered against captain Bliss. The statement of the number became particularly necessary, as the complaint was not universal, in order to shew under what authority we acted, and how far those injuries were felt to extend. Written with this intension, the natural construction is this, which is so clear and so obvious as to baffle false criticism, to elude its meaning.

The next sentence is, "Should the officer, to whom they have appealed, refuse them attention; they owe him the candor to say, that although in *his* opinion, it may be an adherence to military propriety, yet the impending degradation, arising out of the impunity with which the officer complained of would insult and oppress them, must be avoided."

Investigate it. We felt injuries. It was doubtful whether there was sufficient justice in the commanding officer, to give them consideration; his previous conduct had forfeited that confidence, which had been reposed in him. Notwithstanding "they," with confidence, "hope that he will do them justice," is the language of the paper; respectful, soliciting, and firm; declarative of their determination to avoid receiving the repetition of such indignities. And how were they to avoid them? The next sentence explains, in which the laws are appealed to, that are imperative.

"If we remain in our country's service, let the military law protect us; and if it be inexpedient that it should, we would enjoy the rights of private citizens."

In this is also frankly expressed their resolution to quit the service, if the laws are to continue partial in their application; corrective of their errors, but affording no protection of their acknowledged rights. This sentence, unconnected with the former, is wild and unmeaning; or if it admits any meaning distinct therefrom, it is in contradiction of that which the Superintendant supposed to exist in the preceeding one. To set at defiance law, and oppose constituted authority, and in the

next breath, to appeal to the laws, and urge their application by that authority, argues a want of judgment, with which I am sure none can charge the most ordinary capacities. Yet it seems that it is *bold spirits, and enlightened minds, the artful and calculating*, who fell into this egregious error.

The witnesses have detailed the mode in which was to have been *enforced* the administration of the law, and thereby the respect of our rights. Had that plan proved abortive, without shewing means of further pursuit for redress, every honorable member of the Seminary would have resigned, not from any *pre-engagement*, but under the determination to live in a free country, with the rights and privileges of freemen.

The instrument closes with these expressions, "Our conduct is not dictated by the effervescence of passion ; it is founded on principle. We will proceed on that principle to the verge of right, supporting our views with all the influence attainable, and if necessary, sacrifice our individual interest in the cause we have undertaken." This alone might have shewn, that our conduct was not the bubble of caprice, that of itself would soon burst, and therefore elicited not serious thought, but that in the spirit of tempered feelings, and on fixed principles, was conducted this business of the utmost moment, which involved the honor of one hundred and eighty cadets ; persons, who to maintain their rights, were determined to go to the utmost limit consistent with the law, (this being my notion of the verge of right,) to oppose this personal violation ; and rather to sacrifice their individual interest, than to submit to a polity embracing principles and practices, the opiates of honor, and deadly caustics to whatever exalts, or dignifies humanity.

I will here incidentally mention the means taken by the adjutant and inspector general Parker, to screen the Superintendent ; for it is proper that the President of the United States should know, that an officer who unequivocally and decidedly expressed his opinion to that *officer* against our proceedings, condemning them as insubordinate and mutinous, was afterwards detailed as one of my judges, and ordered here for my trial. I mean lieut. Horace C. Story. And that another, lieut. George Blany, who, perhaps not in so forcible a manner, yet in terms sufficiently strong, as you have very justly determined, had reprehended our steps, was detailed at the same time, and in like manner attended the court, by the order of brigadier general Parker. A minister entrusted with the execution of the laws, to which are subject the honor.

and the life of the citizen, should be free from such illegitimate practices; however his conduct may be *morally*, in his individual relation to my accuser, it is an outrage of his *official* character.

Gentlemen, I am no disciple of Zeno in the social relations of man to man. My heart is always warmly interested in the welfare, and poignantly afflicted at the misfortunes of a friend; and while I participate in the affections of those I love, there is no restraint, no palsy of my efforts for their good, in the cold and calculating policy of self interest, or security; yet that friendship should not wanton into malevolence to the weak, who are in the consciousness of rectitude, nor originate the mal-administration of justice, to support rank in corruption, against laudable exertions.

Gentlemen, I have found it necessary, in the investigation of this case, to consider myself somewhat in the light of prosecutor, in order to develope completely the proceedings of the Cadets in November last. It does appear that the alleged disturbances were of so intricate, and singular a nature, that the prosecutor, aided by every resource which the brevet major and himself could possibly fall on, had obtained no positive information, before my cross examination of his witnesses on this occasion. Did you mark with what extreme avidity he endeavored to avail himself of the answer to a question from me to the witness, cadet Malcolm? To him it seemed to indicate that disaffection had existed in the corps.

*Disaffection*, and *excitement*, gentlemen, do not, according to the lexicographers I have examined, appear to be synonymous terms. But I do acknowledge *excitement* was high in that body, about the twenty-third of November last; and when I tell you that I was involved in business which I am now closing, by a partiality creative of emotions more exquisitely delightful, than ever before agitated my breast, or that I can ever again anticipate; I do declare, if I had thought that indignities such as they had received, were received passively, without high excitement, I would sooner have seen them subjected to the lash, than have endeavored to remove or ward off a single oppression. It was natural that they should be; they were, and I am not the one to disguise it, highly wrought on by the conduct, and indignant at the measures of captain Bliss. They felt sensibly their injuries, and were prepared to advance boldly to the "verge of right" to redress them.

Gentlemen, the regular pulse, on such occasions, neither indicates greatness, nor fortitude of soul. Do not level distinctions between the lofty spirit, that is warmed by a sense of wrong, and the dull, cold, lethargic *automaton* being. The obedience of the one is grounded in a sense of right, and firmly supported by the principles of honor; the other is the mere machine, moving under the law, in which it is set. There are few instruments of this kind, in the corps of Cadets.

I now present you a copy of the charge against captain Bliss, and the proceedings of the Court of Enquiry held thereon, in which it appears, that the Court found the accused, (captain Bliss,) guilty of all the specifications, except the first. On this specification no evidence was taken, although certificates on honor had been furnished the Court, supporting the facts, and pointing out many witnesses, who were here present, and who were not called on.

The witness, cadet Malcolm, has informed the Court, that the measures of the Committee put down the excitement of the Corps. They fully relying on the ability of their Committee to obtain a salutary change in the course adopted by captain Bliss, and to effect a respect for their rights. They were therefore no longer in a state of agitation; their feelings subsided, and they determined to await patiently the issue of such steps as we might deem proper to pursue. There does not appear now to be a single word of testimony supporting the first charge, not even on the doctrine of probabilities; nothing on the second, except major Thayer's on the third specification. Doctor Walsh was brought forward to prove that I did wrong in the committee business, cheerfully, and intentionally.

If I were in want of ideas in the preparation of this document, to make it voluminous, the *Doctor's* testimony would afford ample matter for commentary. It is pointed, honorable, and satisfactory. It discovers what were my inducements; what I have continually avowed, and shall always acknowledge with pride and pleasure. And what will the Court think of the charges on the whole, when they are duly impressed with the truth of that evidence? Will it be possible for them to believe me guilty of the fourth charge, ungentlemanlike conduct? guilty of deliberate falsehood?

The Court will closely examine the evidence of cadets Fairfax, and Lowndes, both disproving the third specification of the second

Charge; the one circumstantially, the other positively. Cadet Fairfax's evidence goes to shew, that major Thayer has committed a *breach of trust*, inasmuch as he has kept papers, that were handed to him *privately*, for *private* purposes, and has acted *officially* on them, as if they had been *officially* presented and received. His proof, establishing the fact, that the papers referred to, in the third charge, were not presented to major Thayer, by the Committee, nor sent to him by the Committee, nor received by him as coming from the Committee, goes to disprove that charge, under which it is said, that a second communication was handed him coming from the Committee, which *he* asserts to have been contrary to orders. It is unnecessary to sum up the evidence of cadet Fairfax on the fourth charge; for it is short, clear, and explicit.

*Mr. President, and Gentlemen of the Court,*

Having thus far proceeded in the investigation of the proceedings of the Committee of Cadets, (or rather of the Cadets as a body, acting by their Committee,) on the broad basis of general, acknowledged right; and but briefly touched on the evidence on the records of the Court, I shall now narrow my consideration to the particulars of this case, abstracted from the idea of a general principle; although I am persuaded, that I have established the position of our being supported by *Law, Precedent, and public Utility*.

If I am rightly informed of what constitutes mutiny, or mutinous conduct, by much attentive examination of the most approved authors on the subject, except in a very few cases, inapplicable to our country, it consists in some *overt Act*.

"There must be," says Judge Hawkins, in treating of crimes of this nature and magnitude, "a certainty of the offence committed; and nothing material shall be taken by intendment, or implication; but the special matter of the whole fact ought to be set forth with certainty."

If this doctrine be admitted, that "nothing material shall be taken by intendment, or implication," and if we examine the whole tenor of the evidence adduced on the part of the prosecution, which by *implication*, may distantly bear against me, and contrast it with the official Report of the Superintendent of the Academy, on this matter, to the Chief Engineer, (which Report, being official, should have all the avail of an oath,) whatever his oath may, in part, support unfavorable to my interest, will vanish, and leave him, not the pillar of his own fabric, but the thunderbolt which will shiver it into pieces.

Again, attend to his language. "Notwithstanding the proceedings which I have been compelled to describe in great haste, I am happy in being able to inform you, that there has been no positive act of mutiny or disorder; and that the good order of the Institution has *not* been interrupted for a moment."

These are the premises on which he grounds his charge of mutinous conduct, "No positive act of mutiny or disorder;" but something formed in his own imagination, too vague for clear expression.

Evidence on the paper (E.) has not been taken; partly because it is an original certificate on honour, and partly to avoid tediousness. It is as follows;—

"It has been asserted in orders read this day before the Battalion, that the members of the Committee appointed by us, had probably used their influence in persuading us to take those steps which we have taken. We, the undersigned, do therefore affirm, upon our word of honour, that no influence was ever employed in persuading us to take those steps, and that in so doing we did not at all think it contrary to military discipline.

*(Signed by more than 140 Cadets.)*

"West-Point, 27th Nov. 1818."

It is to be hoped for the honour of this court, and the reputation of the army, that their decision will shew that the spirit of liberty and independence as warmly animates the soldier as the citizen; that the honest farmer and the venerable judge are not the only repositories of justice; that the profession of arms does not accommodate the judgment to the capricious will or ill-directed wishes of the superior;—and that self-interest "which shakes the public with the same

"troubulous storms that toss

"The private state, and renders life unsweet,"

is not the leading principle. But, although the Chief Magistrate has passed on us an unqualified censure, they will, on those clear and exculpatory documents, give a decided verdict of acquittal.

The Second Charge, of "Accessory to Mutinous Conduct," may be answered more fully than it has been, by the following considerations:

*Firstly*, A criminal cannot be accessory to himself; and, consequently, whatever holds him forth in this character, is, in Law, a misnomer.

*Secondly*, The commission of a crime must be first established; and hence, the fact of Principal in that crime of which the Accessary is charged, before he can be convicted as such.

And, *Thirdly*, That when the allegation against the Principal, or Principals, has been disproved, the law does not, and cannot, conceive of an Accessary to that crime. The crimes of Principal and Accessary are distinct, and cannot be blended together.

Sir *William Blackstone* thus speaks on the subject. "A man may be a Principal in an offence in two degrees. A Principal in the first degree is he who is the actor; and in the second degree, he who is present, aiding and abetting the fact to be done; which presence need not be an immediate, actual standing by, within sight or hearing of the fact; but there may also be a constructive presence; as when one commits a robbery or murder, and another keeps watch at some convenient distance. An Accessary is he who is not the chief actor in the offence, but is some way concerned therein, either before or after the fact committed. An Accessary *before* the fact, is one who, being absent at the time of the crime committed, doth yet procure, counsel, or command another, to commit a crime. The procuring of a felony to be committed, though it be through the intervention of a third person, is being an Accessary before the fact. An Accessary *after* the fact, may be when a person, knowing a felony to have been committed, receives, comforts, or assists, the felon; and generally, any assistance *whatever* given to the felon to prevent his being apprehended, tried, or suffering punishment, makes the assister Accessary."

If we admit the learned Chief Justice's explication of Principal and Accessary to be the true expression of the law; the specifications in support of that charge against me, come not within the definition of an Accessary. The very acts as laid down in the Specifications of the first charge are those which are brought in support of the second; with with an additional one, which involves these inconsistencies, viz:

*Firstly*.—It presupposes that when the Principals are cleared, they

may be convicted as Accessaries, when that very clearance shows, that the crime with which they are charged did not exist.

*Secondly*.—That Accessary and Principal are convertible terms.

*Thirdly*.—That a deed having no connexion with the accusations against the Principal, and no relation to him as such, can be brought in support of a charge of Accessary to that Principal; and

*Fourthly*.—That the magnitude of an Accessary's guilt can exceed that of his Principal.

I shall now offer another quotation from Chief Justice *Blackstone*. "Formerly no man could be tried as Accessary till after the Principal was convicted; or at least, he must have been tried at the same time with him." "Though a man may be indicted as an Accessary and acquitted, he may afterwards be indicted as a Principal. For an acquittal of receiving or counselling a Felon, is no acquittal of the Felony itself. But it is a matter of some doubt, whether, if a man be acquitted as Principal, he can afterwards be indicted as Accessary before the fact; since those offences are frequently very nearly allied, and therefore an acquittal of the guilt of the one, may be an acquittal of the guilt of the other also."

In the case under your consideration, the guilt of the Accessary is not a near approximation to the guilt of the Principal, but it comes up to, and exceeds it. I leave the conclusion for you to draw, and observe generally on all that has gone before, that if there is any doubt in your minds, engrafted there by the artful narrative of my accuser, the voice of the law is loud: if a *doubt* exists either as to the law or fact, it orders a construction *favorable* to the accused, or presumes innocence.

From many of those considerations, I am led to conclude that the charges, in their very construction are unwise, incongruous and unlawful. That they were generated in corruption, and conceived by a weak and depraved intellect. I am therefore not surprised at their deformity; at the absence of simplicity and comprehensiveness, nor at their want of legal form and legal basis. It is not to be expected, that one whose steps are continually on the prostrate laws of his country, has taken much pains to enquire into their modes, or their nature.

A question was put by the prosecutor to Mr. Fairfax, to know of him if I could not have disobeyed major Thayer's order, as stated in the third Charge, without his knowledge? I have only to say, that this question was one not calculated to expose facts, but to obscure them; for the evidence of major Thayer, on that point, was, that the order, he thought, was disobeyed at the time that Mr. Fairfax and myself waited on him; and at no other time am I charged with having done so. There being but one witness, whose testimony bears the most distantly against me, I shall offer a few extracts from several legal writers, on the force of a single individual's testimony.

*Tyler, page 296.* "A single witness requires much corroboration from concurring circumstances; for when there is no presumption from circumstances fortifying his evidence, the credit of that person would need be very high, indeed, whose single and unsupported testimony should give faith to any criminal accusation."

*Blackstone, page 366, vol. 4th.* "In all cases of high treason, petty treason, and misprision of treason, two lawful witnesses are required to convict a prisoner; unless he shall willingly, and without violence, confess the same.

May it please the honorable Court, I have arrived at the close of my remarks, on the circumstances of my conduct, and the evidence which has been brought forward. It may well be supposed, that if I felt the least compunction of conscience, if I believed any of my proceedings, for which I have been brought before you, were susceptible of being construed into a violation of law, that I should terminate my defence with fear and trembling.

But although my reputation, as a soldier, and a man, is now in your hands, I do feel, that your judgment, founded on impartiality and honor, will place it on a higher elevation, than that from which my accuser presumptuously believed he could degrade it. You are the soldier's tribunal, the judges of my reputation; you have seen the malignity exhibited by my opponents; you have viewed the attempts to blast the character of a young man, who has nothing but that character to elevate him in life. They have sought to divest me of all I possess, have endeavored to blacken me, by the imputation of the most vile and abominable crimes, of which a soldier can be guilty. The endeavor, I trust, will prove abortive, for my shield is in the integrity of you,

gentlemen of this honorable court, in your hatred of tyranny, malignity, and falsehood. If there is any delight in thwarting the views of desperate maliciousness ; if it can give the rational mind any pleasure to preserve the fair fame of an honest, humble individual ; if those who are vested with the dispensation of justice, feel it their duty to act in strict accordance with equity, *then I am sure, I shall be honorably acquitted.*

It is impossible for me to close the vindication of my conduct, without expressing, as well as I am able, the high sense which I entertain of the gentleman like deportment, and attention of the special Judge Advocate. It is not for his public duties alone, that I would acknowledge my obligation ; but I must say, that he is almost a solitary example of unchanged principle, amongst many that have changed at the first breeze of adversity. That breeze has cooled them ; but it has only freshened his honor and his feelings.

I am prepared, gentlemen, to receive your sentence.

THE END.






MEMORIAL  
TO  
CONGRESS.





## MEMORIAL.



MAY IT PLEASE THE HONOURABLE  
THE CONGRESS OF THE UNITED STATES.

THAT the undersigned, late Cadets in the service of the United States, in pursuance of original powers extended to the said undersigned by one hundred and eighty Cadets, in November 1818, to act in their behalf, and by all legal means, to relieve the corps of Cadets from certain tyrannies, which they hold to exist; would respectfully represent and declare :

That a true statement of the situation of the Military Academy has been withheld from the Congress of the United States.

That in consequence, the said Military Academy has suffered under the abuses of an authority, which was and is unrestrained, by any fixed and certain laws.

That although it has been officially asserted, that the said Military Academy has been governed by the Rules and Articles of War, yet those laws have frequently been infringed, in cases involving the reputation of individuals.

That Courts of Enquiry have been ordered by the Superintendent of the Academy, for the purpose of trying Cadets, who did not request, and who did not desire the convention of such Courts; the Superintendent violating thereby the 92d article of war. (*See Certificate No. 1.*)

That unjust and unauthorized taxes have been levied on the Cadets, at different times, under the pretence of a charge for the injury of class books; that the said taxes were levied without the consent of

the Cadets, and stopped from their pay, without their being able to prevent the imposition. (*See Certificate No. 2.*)

That the Cadets have been, and are coerced to sign the pay-rolls of the Academy, acknowledging the receipt of their pay; when such acknowledgement has been, and is in effect false; because they have not been, and are not permitted to dispose of any portion, or to have any concern in the disposition of the said pay. (*See Certificate No. 3.*)

That insults, gross, personal, corporeal, and degrading, have been offered to Cadets, as individuals, and to the Corps, as a body, with impunity; the officer offering such insults being abetted by his superior, the Superintendant, and permitted to join his regiment without a public punishment. (*See pamphlet attached to this petition, marked A.*)

That charges against the said officer were preferred by an individual, who had received a corporeal insult, and were not attended to by the Superintendant; that charges were preferred, by the undersigned petitioners, against the said officer, (*See A.*) and were not attended to; but, as if to punish the humility that would beg, when goaded past endurance, they were punished for thus complaining, by an unheard-of arrest and persecution, for nearly twelve months. (*See pamphlet, A.*)

*That the present state of the Academy is the same, as at the time the aforesaid injuries took place, AND THAT THOSE INJURIES MIGHT NOW BE REPEATED WITH IMPUNITY.*

That there is now in force an illegal order, whereby Cadets are forbid to address the Department of War, or Engineers, on any occasion or emergency; this order being contrary to the genius of our laws, and in direct violation of the Rules and Articles of War. (*See Certificate No. 4, and article of war 34.*)

That Cadets have been forced to resign, by a public order, under pretence that they were not proficient in their studies, when it was known, that the said Cadets were prevented from making a proper progress in their studies, by disadvantages resulting from the organization of the Institution. (*See Certificate No. 5.*)

That Cadets have been forced, *in effect*, to give evidence against themselves, before a Court of Enquiry, which they did not request, by a high handed violation of common law. (*See Certificate No. 6.*)

That, as an instance of the system of partiality and tyranny, which exists at the Academy, the Superintendent has taken from the weekly class-reports, the names of those Cadets, who were reported as the most meritorious, by their Professors, and substituted the names of other Cadets, in their stead, for whom he had a private partiality. (*See Certificate No. 7.*)

That the present Superintendent of the Academy has been guilty of a gross dereliction from truth, in misrepresenting, to the War Department, the characters of four of the undersigned petitioners, terming them *old offenders*, and charging them with being the ringleaders of mutiny, the seducers of their fellow Cadets from duty, and the cause of those disturbances, which are said to have occurred, on the assumption of the superintendancy by captain Alden Partridge, in 1817. (*See pamphlet, A, papers R & T.*)

That although the Superintendent, the Secretary of War, and the President, have declared that Cadets are subject to Military Law, yet a Report from the Superintendent, received through the War Department, and approved by the Secretary and President, contained a counter assertion: that they were subject to the penalties of Martial Law, but denying "that they had rights, as a corps of the army."

That the Cadets are now forbidden to sign any paper, without permission from the Superintendent, under the vain idea, that their spirits will thus become broken, and that all their sensibility will be stifled or destroyed. (*See pamphlet, A.*)

That it will be perceived, by the honourable Congress, from the foregoing statement, that a system has been, and is now, in operation, to suppress an honourable and virtuous pride among those, who are to be reared for the calling of arms; that the most undue and illegal means are taken, to cut off from the Congress, the Executive, and the Sovereign People, all knowledge of the state of an Institution, which exists in the bosom of the Republic, tending to render it a very viper to the breast, by which it is suckled. It is bound round from all complaints against the most galling tyranny, by the icy bond of official interdict, backed by the army laws, while within those laws are applied, when it suits expediency, or perverted, whenever they may afford protection to the oppressed.

That it has been attempted to place the Cadets in the state of those

miserable soldiers, who, before their eyes, at this very Academy, have received between one and two hundred lashes, at a time, on the bare back, without even the form of trial, and in defiance of the American Law, which preserves sacred, both to the soldier and citizen, that great feature of liberty—a trial by Jury.

That the undersigned petitioners most humbly hope, that the honorable Congress will enquire into the manifold abuses which are here complained of. They most humbly pray that an investigation may be had on this said Military Academy, which, if allowed to be governed according to the monarchical ideas of its present ruler, will, in a short time, be so advanced in depravity as to require nothing less than its utter extinction.

That the undersigned Petitioners would most humbly set forth, that although this Petition may appear novel and unprecedented, yet it is the only resort for the Cadets of the Academy, who have failed in their efforts to gain partial or substantial redress; they want, and it is humbly hoped that the Congress will extend to them, the protection of the laws, *in a fixed and certain code for the Institution.*

That the undersigned Petitioners would most humbly represent, that as individuals, they are disinterested in the consequences of this Petition. They are now citizens. Their desires of becoming Soldiers of the Republic have been frustrated. A Court, to which was confided the sanctity of the law, has violated that sanctity in order to condemn them. They may, even now, be laboring under censure and obloquy. They merely ask, in the name of, and for their constituents, that which they were appointed to obtain: a riddance from tyranny.

All of which is most humbly submitted to the honorable Congress.

NATHANIEL HALL LORING,  
THOMAS RAGLAND,  
CHARLES RUTLEDGE HOLMES.  
CHARLES R. VINING,  
WILSON M. C. FAIRFAX.

# CERTIFICATES.

( No. 1. )

*Concerning illegal Courts of Enquiry at West-Point, on Cadets.*

Courts of Enquiry were frequently ordered for the trial of Cadets, without their requesting them, during the year 1818. Many Cadets who were tried by those Courts, were so tried, contrary to their wish. The undersigned, was in the year 1818, the Post Adjutant at West-Point, and by order of the Superintendent, (major Thayer) often issued orders for such trials. Some of the Cadets who were tried, were dismissed, some suspended, and their pay stopped, and others reprimanded.

THOMAS RAGLAND.

( No. 2. )

*Respecting stoppages of the Pay of Cadets of the United States' Military Academy, in 1818, and 1819.*

1818.	1819.
January, - - - \$ 25 25	January & Feb'y. \$ 16 61
March, - - - - 54 62½	March and April, 133 75
April, - - - - 84 12 1-2	May and June, 53 87 1-2
May and June, - 186 16	March and April, 57 00
June, (add'l.) - - 31 19	May and June, 574 63 1-2
July and August, - 9 98	July and August, 198 25
October, - - - - 30 77	
November & Dec'r. 6 25	
\$428 35	1034 12
	1818, 428 34
	\$ 1462 46

The above is taken from the accounts in the Pay and Quarter Masters' office, and as far as it goes, exhibits a true statement of the

deductions from the pay of Cadets for the injury of class books, and some small charges for the injury of arms, &c. It is uncertain whether the full amount is stated, and very probably it is not, but as far as the accounts could be inspected this abstract is correct.

NATHANIEL H. LORING,  
THOMAS RAGLAND,  
WILSON M. C. FAIRFAX.

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( No. 3. )

*Coercion to sign Pay-Rolls.*

WEST-POINT, Dec. 20th, 1819.

We certify, that from continual orders, and the constant practice of the post, we have been always obliged to sign the Pay Rolls, in token of receipt of pay which we never have received, and which has been disposed of, without consulting us on the object, a mode of appropriation, whenever our expenditures exceeded our pay ; excepting only the allowance of five dollars, when our debts were within certain limits.

EDWARD G. W. BUTLER,  
A. J. DONELSON,  
WILSON M. C. FAIRFAX.

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( No. 4. )

*Prohibition of communication with the War Department.*

We certify that an order now exists in full force, prohibiting any communication from a Cadet to the War Department or Engineer office, except through the Superintendent of the Academy, and therefore subject to be stopped by him.

WILSON M. C. FAIRFAX,  
EDWARD G. W. BUTLER,  
A. J. DONELSON.

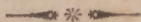
West-Point, Dec. 20th, 1819.

( No. 5. )

*Unjust Dismission.*

I certify on honour, that some of those Cadets who were forced to resign by an order issued by major Thayer, under the pretence that they had not made sufficient progress in their studies, had had but very little opportunity of good instruction ; for a section to which they belonged for a considerable time, was attended to by a higher class, each member in this class, instructing in turn ; and there were no less than twelve or fifteen of such instructors to this section.

WILLIAM S. MAITLAND, CADET.



( No. 6. )

*Coercion of Evidence.*

We certify on our honour, that a Court of Enquiry convened at this Post, by command of the Superintendant major S. Thayer, to discover the individuals who flogged a teamster. It was not convened at the request of those implicated. Cadets Turnbull, Whetcroft, Van Wyck, Vanderburgh, and Karrick, all concerned conjointly, were brought before this Court and ordered to give evidence, each one of the other four ; but not to speak of himself unless voluntarily. They were all found guilty. Mr. Van Wyck was dismissed ; the others were suspended.

NATHANIEL H. LORING,  
THOMAS RAGLAND.

( No. 7. )

*Unjust alteration of Merit Report.*

WEST-POINT, Dec. 20th, 1819.

I certify that my No. in the weekly Class Report, has been changed by the Superintendant of the Academy, whereby my rank in my Class as given by my Professor, has been lowered arbitrarily and unjustly.

DAVID MONIAC.

It is a common error to suppose that the  
the only way to get the most of a thing is to  
the best of it. But this is not the case. The  
the best of it is to get the most of it in the  
the best of it is to get the most of it in the  
the best of it is to get the most of it in the

# WILLIAM L. GAYLARD

He was born in the year 1812, and was  
the first of his name in the family.

## Early History

He was educated in the common schools of  
his native State, and then in the University of  
the State of New York. He was a member of  
the State Bar, and was admitted to the  
practice of the law in the year 1835. He was  
a member of the State Bar, and was admitted  
to the practice of the law in the year 1835.

## WILLIAM L. GAYLARD

### THOMAS B. GAYLARD

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